



30 August 2022

Australian Securities Exchange (ASX) Announcement

## INTERIM FUNDING AGREEMENT WITH SONDERMIND AND TRANSACTION TIMING UPDATE

As announced to the ASX on 5 August 2022, the asset sale agreement (**Sale Agreement**) entered into between Total Brain Limited (**Total Brain** or the **Company**) and SonderMind Inc. (**SonderMind**) pursuant to which SonderMind has agreed to purchase the business of the Company and its subsidiaries (**Proposed Transaction**), is conditional upon the Company and SonderMind entering into interim funding arrangements whereby SonderMind provides financial accommodation to the Company.

Total Brain advises that it has entered into a short term loan agreement with SonderMind (**Loan Agreement**) to assist the Company to meet its short term working capital requirements.

Under the Loan Agreement, SonderMind may, in its absolute discretion, provide funding up to a maximum amount of US\$1,750,000 to the Company's wholly-owned subsidiary, Brain Resource Inc. (**Borrower**). Amounts drawn under the loan facility are subject to an interest rate of 3.5% per annum, subject to changes in the US federal funds rate.

The loan facility, including all accrued interest, must be repaid to SonderMind on the earlier of 31 October 2022 (unless extended by SonderMind), the date of completion under the Sale Agreement or the date that is 30 days from the date of termination of the Sale Agreement (**Repayment Date**). The Borrower may voluntarily prepay any amount of the drawn loan facility at any time before the Repayment Date.

Under the Loan Agreement, the Borrower provides customary representations and warranties for a transaction of this nature. The loan facility is unsecured.

The Loan Agreement also contains customary events of default, which are set out in full in Annexure A to this announcement. If an event of default occurs, SonderMind may, amongst other things, require all outstanding amounts under the Loan Agreement and the US\$500,000 made available to the Total Group under the letter of credit as announced to ASX on 5 August 2022 to be repaid on demand.

As announced on 5 August 2022, the Company is required to seek shareholder approval for the Proposed Transaction for the purposes of ASX Listing Rule 11.2. The Company now intends to hold an extraordinary general meeting for this purpose in early to mid-October 2022. A notice of meeting and explanatory memorandum (together with an independent expert's report), which



will contain additional information on the Proposed Transaction, will be sent to shareholders and released to ASX in due course.

Authorised for release to ASX by:

**Matthew Morgan**  
Non-Executive Director  
Total Brain Limited



For further queries please contact:

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**About Total Brain Limited (ASX: TTB)**

Total Brain Limited is a San Francisco and Sydney based applied, integrative neuroscience company that has developed and offers Total Brain, a SaaS-based mental health platform powered by the largest standardized brain database. Its SaaS platform has helped more than 1 million registered users to-date scientifically measure and optimize their brain capacities while managing the risk of common mental conditions. Benefits for providers include improved patient outcomes, tracking of evidence-based outcomes across the continuum of care, and a reduction in clinician fatigue. Benefits for employers and payers include better mental healthcare access, lower costs and higher productivity. For more information, please visit [www.totalbrain.com](http://www.totalbrain.com) and follow us on [Twitter](#), [LinkedIn](#) and [Facebook](#).

## **Annexure A – Events of default under Loan Agreement**

Each of the following events is an Event of Default:

- (a) **(failure to pay)** a Seller Group Member does not pay on or before the due date and in the specified manner, any amount payable by it to the Lender under a Transaction Document;
- (b) **(failure to comply)** a Seller Group Member defaults in fully performing, observing and fulfilling any obligation owed to the Lender under a Transaction Document (other than an obligation referred to in paragraph (a) above), or imposed as a condition of any waiver or consent by the Lender under or in connection with any Transaction Document, provided that a breach by a Seller Group Member of an obligation under the Sale Agreement will only constitute an Event of Default if:
  - (i) the breach is material; and
  - (ii) the breach has not been remedied within 10 business days after the Lender notifies the Borrower of such breach;
- (c) **(Event of Insolvency)** an Event of Insolvency occurs in respect of a Seller Group Member;
- (d) **(untrue warranty)** any representation or warranty made or deemed to be repeated by a Seller Group Member under any Transaction Document proves to be untrue or incorrect when made or deemed to be repeated (whether by omission or otherwise), provided that a breach of a representation or warranty given by a Seller Group Member under the Sale Agreement will only constitute an Event of Default if:
  - (i) the relevant breach of representation or warranty has not been remedied within 10 business days after the Lender notifies the Borrower of such breach; and
  - (ii) the amount of the warranty claim that the Lender would be entitled to make under the Sale Agreement in respect of such a breach of representation or warranty equals or exceeds the permitted warranty claim threshold under the Sale Agreement;
- (e) **(cross default):**
  - (i) any Financial Indebtedness of a Seller Group Member is not paid when due or within any originally applicable grace period;
  - (ii) any Financial Indebtedness of a Seller Group Member is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default or review event (however described);



- (iii) any commitment for any Financial Indebtedness of a Seller Group Member is cancelled or suspended by a creditor of the Seller Group Member as a result of an event of default or review event (however described); or
  - (iv) any creditor of a Seller Group Member becomes entitled to declare any Financial Indebtedness of the Seller Group Member due and payable prior to its specified maturity as a result of an event of default or review event (however described);
- (f) **(Convertible Note)**
- (i) any of the Convertible Notes are redeemed (for any reason) prior to the Repayment Date; or
  - (ii) any amount owed by a Seller Group Member under the Convertible Notes is, or is required to be, repaid prior to the Repayment Date,
- in each case, other than by way of conversion into ordinary shares of Total Brain;
- (g) **(vitiation, termination of Transaction Documents):**
- (i) any Transaction Document is or becomes, or is claimed by a person expressed to be a party to the Transaction Document (other than the Lender) to be illegal, void, voidable or otherwise unenforceable in whole or in a material part; or
  - (ii) any Transaction Document is repudiated, rescinded or terminated, otherwise than by effluxion of time, by discharge or by exercise by a person expressed to be a party to the Transaction Document (other than the Lender) of a right to do so;
- (h) **(unlawfulness)** it is or becomes unlawful for a Seller Group Member to perform any of its obligations under the Transaction Documents;
- (i) **(compulsory acquisition)** any part of a Seller Group Member's assets is compulsorily acquired by any Governmental Agency or a Seller Group Member sells or divests any part of its assets because it is required to do so by a binding order from a Governmental Agency;
- (j) **(enforcement against assets)** a Security Interest is enforced against a Seller Group Member or its assets; or
- (k) **(cessation of business)** a Seller Group Member ceases or threatens in writing to cease to carry on all or substantially all of its business without the Lender's prior written consent.

**Key defined terms:**

**Convertible Note** means the convertible notes issued by Total Brain under the convertible note deed between Total Brain and Zoltan Varga dated 4 April 2022.<sup>1</sup>

**Event of Insolvency** means any of the following events in respect of a person:

- (a) **(dissolution)** the person is dissolved pursuant to the provisions of applicable law (including, if in respect of a company incorporated in Australia, Chapter 5A of the Corporations Act);
- (b) **(Controller or liquidator appointed)** a controller, liquidator, provisional liquidator, trustee or administrator is appointed in respect of the person or any of its assets;
- (c) **(steps to dissolve or appoint liquidator or administrator)** an application is made to a court or a meeting is convened, or a resolution is passed (or notice is given of such meeting or resolution) or a notice is issued or any other step is taken by any person for the person to be wound up or dissolved or for the appointment of a liquidator, provisional liquidator, trustee or administrator to the person or any of its assets;
- (d) **(scheme of arrangement)** the person:
  - (i) resolves to enter into, or enters into, a scheme of arrangement, a deed of company arrangement or composition with its creditors or an assignment for their benefit;
  - (ii) suspends payment of its debts or proposes or is subject to a moratorium of its debts; or
  - (iii) takes proceedings or actions similar to those mentioned in this paragraph (d) as a result of which the Borrower's assets are, or are proposed to be, submitted to the control of its creditors;
- (e) **(protection from creditors)** the person seeks or obtains protection from its creditors under any statute or any other law;
- (f) **(insolvent)** the person is unable to pay all of its debts as and when they become due and payable or is deemed to be insolvent under any provision of the Corporations Act or any statute or any other law;

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<sup>1</sup> Refer to TTB's ASX announcement dated 5 April 2022.

- (g) (**attachment, distress**) any attachment, distress, execution or other process is made or levied against any asset of the person;
- (h) (**cease business**) the person ceases to carry on all or a substantial part of its business (or threatens to do so);
- (i) (**deregistered**) the person is deregistered under Chapter 5A of the Corporations Act;
- (j) (**files for bankruptcy**) the person makes a voluntary filing for relief under any applicable bankruptcy or similar law for the protection of creditors or an involuntary petition is submitted against such person under any such law; or
- (k) (**general**) an event occurs in relation to the person which is analogous to anything referred to above or which has a substantially similar effect.

**Finance Document** means:

- (a) the Loan Agreement;
- (b) each drawdown notice;
- (c) any other document or agreement agreed between the Borrower and the Lender to be a Finance Document for the purposes of the Loan Agreement; and
- (d) any document or agreement entered into under, or for the purpose of amending, supplementing, replacing or novating any of the above.

**Financial Indebtedness** means any indebtedness for or in respect of:

- (a) moneys borrowed and any debit balance at any financial institution;
- (b) any amount raised by acceptance under any acceptance credit, bill acceptance or bill endorsement facility or dematerialised equivalent;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with generally accepted accounting principles, standards and practices in Australia, be treated as a balance sheet liability;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);



- (f) any redeemable shares where the holder has the right, or the right in certain conditions, to require redemption;
- (g) any amount raised under any other transaction (including any forward sale or purchase agreement) of a type not referred to in any other paragraph of this definition having the commercial effect of a borrowing;
- (h) consideration for the acquisition of assets or services payable more than 90 days after acquisition;
- (i) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the marked to market value (or, if any actual amount is due as a result of the termination or close-out of that derivative transaction, that amount) shall be taken into account);
- (j) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; and
- (k) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (j) above.

**Lender** means SonderMind Inc.

**Seller Group Member** means each of Total Brain, the Borrower, BRC Operations Pty Limited, BRC Distribution Pty Ltd, BRC IP Pty Ltd, BRC International Pty Ltd, BRC Development Pty Ltd and PoweringUpMBS Pty Ltd.

**Transaction Documents** means the Sale Agreement and the Finance Documents.